

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 2736** Session of
2008

INTRODUCED BY GODSHALL, AUGUST 21, 2008

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, AUGUST 21, 2008

AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled,
2 as amended, "An act relating to the finances of the State
3 government; providing for the settlement, assessment,
4 collection, and lien of taxes, bonus, and all other accounts
5 due the Commonwealth, the collection and recovery of fees and
6 other money or property due or belonging to the Commonwealth,
7 or any agency thereof, including escheated property and the
8 proceeds of its sale, the custody and disbursement or other
9 disposition of funds and securities belonging to or in the
10 possession of the Commonwealth, and the settlement of claims
11 against the Commonwealth, the resettlement of accounts and
12 appeals to the courts, refunds of moneys erroneously paid to
13 the Commonwealth, auditing the accounts of the Commonwealth
14 and all agencies thereof, of all public officers collecting
15 moneys payable to the Commonwealth, or any agency thereof,
16 and all receipts of appropriations from the Commonwealth,
17 authorizing the Commonwealth to issue tax anticipation notes
18 to defray current expenses, implementing the provisions of
19 section 7(a) of Article VIII of the Constitution of
20 Pennsylvania authorizing and restricting the incurring of
21 certain debt and imposing penalties; affecting every
22 department, board, commission, and officer of the State
23 government, every political subdivision of the State, and
24 certain officers of such subdivisions, every person,
25 association, and corporation required to pay, assess, or
26 collect taxes, or to make returns or reports under the laws
27 imposing taxes for State purposes, or to pay license fees or
28 other moneys to the Commonwealth, or any agency thereof,
29 every State depository and every debtor or creditor of the
30 Commonwealth," in abandoned and unclaimed property, further
31 providing for definitions, for property subject to custody
32 and control of the Commonwealth and for property held by
33 business associations.

1 The General Assembly of the Commonwealth of Pennsylvania
2 hereby enacts as follows:

3 Section 1. The definitions of "general use prepaid
4 cards," "gift card" and "gift certificate" in section 1301.1 of
5 the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal
6 Code, added November 9, 2006 (P.L.1335, No.138), are amended to
7 read:

8 Section 1301.1. Definitions.--As used in this article,
9 unless the context otherwise requires:

10 * * *

11 ["General use prepaid cards" shall mean cards issued only by
12 a bank or other similarly regulated financial institution or by
13 a licensed money transmitter and shall mean plastic cards or
14 other electronic payment devices which are:

15 (1) usable and honored upon presentation at multiple,
16 unaffiliated merchants or service providers for goods or
17 services or at automated teller machines (ATMs); and

18 (2) issued in a requested prepaid amount which amount may
19 be, at the option of the issuer, increased in value or reloaded
20 if requested by the holder.

21 The term shall not include debit cards linked to a deposit
22 account or prepaid telephone calling cards. The term also shall
23 not include flexible spending arrangements, including health
24 reimbursement arrangements, as defined in section 106(c)(2) of
25 the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.
26 § 106(c)(2)); flexible spending accounts subject to section 125
27 of the Internal Revenue Code of 1986; Archer MSAs as defined in
28 section 220(d) of the Internal Revenue Code of 1986; dependent
29 care reimbursement accounts subject to section 129 of the
30 Internal Revenue Code of 1986; health savings accounts subject

1 to section 223(d) of the Internal Revenue Code of 1986; or
2 similar accounts from which, under the Internal Revenue Code of
3 1986 and its implementing regulations, individuals may pay
4 medical expenses, health care expenses, dependent care expenses
5 or similar expenses on a pretax basis.

6 "Gift card" shall mean plastic cards or other electronic
7 payment devices which are:

8 (i) usable and honored upon presentation at a single
9 merchant or an affiliated group or merchants that share the same
10 name, mark or logo, or usable at multiple, unaffiliated
11 merchants or service providers for the future purchase or
12 delivery of any goods or services; and

13 (ii) issued in a specified prepaid amount and may or may not
14 be increased in value or reloaded.

15 The term shall not include general use prepaid cards or debit
16 cards linked to a deposit account. The term also shall not
17 include flexible spending arrangements, including health
18 reimbursement arrangements, as defined in section 106(c)(2) of
19 the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.
20 § 106(c)(2)); flexible spending accounts subject to section 125
21 of the Internal Revenue Code of 1986; Archer MSAs as defined in
22 section 220(d) of the Internal Revenue Code of 1986; dependent
23 care reimbursement accounts subject to section 129 of the
24 Internal Revenue Code of 1986; health savings accounts subject
25 to section 223(d) of the Internal Revenue Code of 1986; or
26 similar accounts from which, under the Internal Revenue Code and
27 its implementing regulations, individuals may pay medical
28 expenses, health care expenses, dependent care expenses or
29 similar expenses on a pretax basis.]

30 "Gift certificate" shall [mean a written promise which is:

1 (i) usable and honored upon presentation at a single
2 merchant or an affiliated group of merchants that share the same
3 name, mark or logo, or usable at multiple, unaffiliated
4 merchants or service providers for the future purchase or
5 delivery of any goods or services; and

6 (ii) issued in a specific prepaid amount and may or may not
7 be increased in value or reloaded.

8 The term shall not include general use prepaid cards or debit
9 cards linked to a deposit account. The term also shall not
10 include flexible spending arrangements, including health
11 reimbursement arrangements, as defined in section 106(c)(2) of
12 the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.
13 § 106(c)(2)); flexible spending accounts subject to section 125
14 of the Internal Revenue Code of 1986; Archer MSAs as defined in
15 section 220(d) of the Internal Revenue Code of 1986; dependent
16 care reimbursement accounts subject to section 129 of the
17 Internal Revenue Code of 1986; health savings accounts subject
18 to section 223(d) of the Internal Revenue Code of 1986; or
19 similar accounts from which, under the Internal Revenue Code and
20 its implementing regulations, individuals may pay medical
21 expenses, health care expenses, dependent care expenses or
22 similar expenses on a pretax basis.] have the same meaning given
23 to it under section 2 of the act of December 17, 1968 (P.L.1224,
24 No.387), known as the "Unfair Trade Practices and Consumer
25 Protection Law."

26 * * *

27 ["Qualified gift certificate" shall mean a gift certificate
28 or gift card that does not contain any of the following:

29 (i) An expiration date or a period of time after which it
30 expires.

1 (ii) Any type of postsale charge or fee, including, but not
2 limited to, a service charge, dormancy fee, account maintenance
3 fee, cash-out fee, replacement card fee or activation or
4 reactivation fee.

5 The term shall not include general use prepaid cards.]

6 * * *

7 Section 2. Section 1301.2 of the act is amended by adding a
8 subsection to read:

9 Section 1301.2. Property Subject to Custody and Control of
10 the Commonwealth.--

11 * * *

12 (d) The consideration paid for a gift certificate held by a
13 business association is not subject to the custody and control
14 of the Commonwealth under this article.

15 Section 3. Clause 1 of section 1301.6 of the act, amended
16 November 9, 2006 (P.L.1335, No.138), is amended to read:

17 Section 1301.6. Property Held by Business Associations.--The
18 following property held or owing by a business association is
19 presumed abandoned and unclaimed:

20 [1. The consideration paid for a gift certificate or gift
21 card which has remained unredeemed for two (2) years or more
22 after its redemption period has expired or for five (5) years or
23 more from the date of issuance if no redemption period is
24 specified. The provisions of this clause shall not apply to a
25 qualified gift certificate.]

26 * * *

27 Section 4. This act shall take effect in 60 days.